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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,874	05/30/2000	Michel Ladang	192592USONPP-CONT	1709
22850	7590	07/03/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GOFF II, JOHN L	
			ART UNIT	PAPER NUMBER

1733

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/580,874

Applicant(s)

LADANG ET AL.

Examiner

John L. Goff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10,13 and 15-17 is/are pending in the application.  
4a) Of the above claim(s) 17 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10,13,15 and 16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the arguments filed on 4/25/06.

#### ***Claim Rejections - 35 USC § 112***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 10, 13, 15, and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The rejection is the same as that set forth in paragraph 3 of the office action mailed 4/25/06.

#### ***Response to Arguments***

4. Applicant's arguments filed 4/25/06 have been fully considered but they are not persuasive.

Applicants argue, "See January 25, 2006 Office Action at page 3, lines 14-16. Applicants believe that the Office's reasoning is based **solely** on the absence of a working example. In other words, the Office has taken the position that the claimed process is not enabled because there are no working examples."

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This is incorrect. Claim 10 discloses forming a foam sheet expanded unidirectionally only in its thickness by surface-crosslinking both faces of the unsupported foam sheet and expanding. The closest prior art Tsujimoto et al. (JP 04213341) disclose forming a foam sheet expanded in two directions by surface-crosslinking both faces of the unsupported foam sheet and expanding. The examples of Tsujimoto et al. further show that changing the degree of surface-crosslinking does not affect a unidirectional expansion. In view of the prior art, one of ordinary skill in the art would have predicted that surface-crosslinking both faces of an unsupported foam sheet and expanding would not result in only unidirectional expansion. Applicants specification does not further describe the process other than which is claimed. The specification does not provide any further direction to achieve only unidirectional expansion, and the specification does not describe any working examples. The only other direction provided was by way of attorney argument in that achieving an expansion *essentially* in only the thickness direction would have been understood by one of ordinary skill in the art to require performing surface-crosslinking to an extent that unidirectional expansion in only the thickness direction occurs wherein determining the extent of surface-crosslinking would have been routine experimentation (See Page 5, lines 21-25 and Page 6, lines 1-11 of applicants response filed 8/24/04), although it is noted applicants contend this does not apply to unidirectional expansion only in the thickness direction (See Page 7, last line of the third full paragraph of the appeal brief). However, this argument is contradicted by the examples of the Tsujimoto et al. such that while one of ordinary skill in the art would have been able to vary the extent of surface-crosslinking without requiring undue experimentation, one of ordinary skill in the art would not have expected, i.e. predicted, this to result in only unidirectional expansion. Thus, the specification, claims, prior art, and level

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of ordinary skill of one in the art alone would not enable one of ordinary skill to unidirectionally expand a foam sheet only in its thickness without performing undue experimentation and as such the claims are not enabled.

Applicants further argue, “Applicants believe that a conclusion that the presently claimed process is not enabled because the extent of surface-crosslinking is not disclosed is improper because the Office has recognized that unidirectional expansion of a supported pre-expanded polyolefin sheet is possible without relying on whether or not the extent of surface of crosslinking is or is not disclosed (see November 17, 2004 Office Action at paragraph spanning pages 3-4).”.

Applicants have not established how a prior art process of expanding a foam sheet including a support on both faces which unidirectionally expands only in a direction perpendicular to the supports enables a process of unidirectionally expanding an unsupported foam sheet by surface-crosslinking the foam sheet and expanding.

Applicants further argue, “The Examiner’s attention is directed to the disclosure of US 5,883,145 (US '145) at column 10, lines 16ff, which discloses the manner in which olefinic compositions can be cross-linked.”.

US 5,883,145 does not enable the claims as the patent does not disclose how an unsupported foam sheet which has undergone surface crosslinking on both faces is unidirectionally expanded only in its thickness.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John L. Goff



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